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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/235,155	01/22/1999	JOSHUA SUSSER	50253-218	5107

7590 08/22/2002

D'Alessandro & Ritchie  
P.O. Box 640640  
San Jose, CA 95164-0640

EXAMINER

OPIE, GEORGE L

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 08/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/235,155

Examiner

George L. Opie

Applicant(s)

Susser, et al.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ☐ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ☐ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ☐ is/are objected to.
- 8) ☐ Claim(s) ☐ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ☐ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ☐ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ☐.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 14) ☐ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14
- 17) ☐ Interview Summary (PTO-413) Paper No(s) ☐.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

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**DETAILED ACTION**

This Office Action is responsive to Applicant's Continued Prosecution Application, filed 14 June 2002, in which Applicant provided a statement of common ownership of the De Jong reference and the instant application.

1. Request for copy of Applicant's response on floppy disk:

Please help expedite the prosecution of this application by including, along with your amendment response in paper form, an electronic file copy in WordPerfect, Microsoft Word, or in ASCII text format on a 3½ inch IBM format floppy disk.

Please include all pending claims along with your responsive remarks. Only the paper copy will be entered -- your floppy disk file will be considered a duplicate copy. Signatures are not required on the disk copy. The floppy disk copy is not mandatory, however, it will help expedite the processing of your application. Your cooperation is appreciated.

2. Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art, background of application (APA) in view of De Jong (U.S. Patent 5,802,519).

As to claim 14, the APA teaches a method of permitting access to information on a small footprint device from a first program module to a second program module (information can be retrieved from a smart card using a card acceptance device) separated by a context barrier (standards for permitting separate execution contexts to operate on a smart card).

The APA does not explicitly disclose the additional limitations detailed below.

De Jong (p12 51-55) teaches a data exchange system for smart cards comprising a step of creating a context (interaction context) having access to all program modules without context barrier constraints (open any of the other applications).

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It would have been obvious to combine De Jong's teachings with the APA because the context mechanism defined by De Jong (p6 23-25) "leads to a wider range of smart card use" and, thus provides more features/services for users.

As to claim 15, De Jong teaches a supercontext (management interaction context", p4 47-53). It would have been obvious to combine De Jong's teachings with the APA as modified because the management inteaction context would allow a user to employ any available terminal for updating the smart card data from the given terminal, thereby enabling the user to interface the card with other devices for portability and convenience.

As to claim 16, note the discussion of claim 14 above. Claim 16 is the same as claim 14 with the additional limitation of permitting the context to access information of another program module across the context barrier. De Jong teaches context "interactions between data processing units 4,5", p8 50 – p9 2, which shows the accessing of other program modules across contexts. It would have been obvious to combine De Jong's teachings with the APA because the context mechanism defined by De Jong (p6 23-25) "leads to a wider range of smart card use" and, thus provides more features/services for users.

As to claims 22-23, note the rejections of claims 14 and 16 respectively. Claims 22-23 are the same as claims 14 and 16, except claims 22-23 are computer program product claims and claims 14 and 16 are method claims.

As to claim 1, the APA teaches a small footprint device (smart cards) comprising:

- a. at least one processing element (processor)
- b. memory (memory typically found on a smart card)
- c. a context barrier (name space) for isolating program modules from one another using said memory and said processing element (multiple execution contexts ... provides a way to separate or isolate different program modules).

The APA does not explicitly disclose the additional limitations detailed below. De Jong teaches a data exchange system for smart cards and one context (interaction context, p12 51-55) having access to all program modules without context barrier constraints (open any of the other applications, Id.).

It would have been obvious to combine De Jong's teachings with the APA because the context mechanism defined by De Jong (p6 23-25) "leads to a wider range of smart card use" and, thus provides more features/services for users.

As to claim 2, De Jong (p4 47-53) teaches the context (interaction context) is used for access to at least one program module across a context barrier (review and modify data stored in the device memory from a smart card terminal).

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As to claims 3-4, De Jong p8 teaches the context barrier (functional separation) allocates separate name spaces for each program module (processing units 4-5) and the context can access at least two program modules even though they are located in different respective name spaces (interaction between a smart card and a terminal).

As to claims 5-6, see the teachings of De Jong as related in claims 3-4 above.

The limitations in claims 5-6 are the same as claims 3-4, but for the substitution of "memory space" for the "name space" term. It would have been an obvious variation for one skilled in the art to provide this configuration of memory, because the interaction of programs from separate memory spaces facilitates connectivity for safe and effective interprocess communications.

As to claims 7-11, De Jong teaches security protocols for governing interactions with contexts, memory, and objects, p4 41-46, p5 13-21, and p8 50 – p9 2, and from this, one skilled in the art would have provided the recited security checks, as routine procedures for promoting process interactions while ensuring that the operations can be trusted as part of the system.

As to claims 12-13, note the rejections of claims 1 and 10 above. Claims 12-13 are the same as claims 1 and 10, except claims 12-13 are method claims and claims 1 and 10 are apparatus claims.

As to claim 17, see the discussion of claim 16 above.

As to claim 18, note the rejection of claim 1 above. Claim 18 is the same as claim 1, except claim 18 is a computer program product claim and claim 1 is an apparatus claim.

As to claim 19, "Official Notice" is taken that the use of a carrier wave as a memory medium is well known in the art (MPEP2144.03).

As to claim 20, note the rejection of claim 16 above. Claim 20 is the same as claim 16, except claim 20 is a computer program product claim and claim 16 is a method claim.

As to claim 21, see the claim 19 rejection.

As to claim 24, see the discussion of claim 14 above. The limitations in claim 24 are basically the same as claim 14, but for the addition of the recitation regarding the transmission of code from a server. Network communications from

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servers are notoriously well known, and thus transmitting the subject method/code would have obviously followed in this context.

#### 4. Response to Applicant's Remarks:

Applicant has provided evidence in this file showing that the invention was owned by, or subject to an obligation of assignment to, the same entity as the De Jong reference (U.S. Patent 5,802,519) at the time this invention was made. Accordingly, the De Jong reference is disqualified as prior art through 35 U.S.C. 102(e), (f) or (g) in any rejection under 35 U.S.C. 103(a) in this application. However, this applied art additionally qualifies as prior art under another subsection of 35 U.S.C. 102 and accordingly is not disqualified as prior art under 35 U.S.C. 103(a). The De Jong reference qualifies as prior art under 102(a) in a 35 U.S.C. 103(a) rejection. It must be noted that the common ownership provision that disqualifies prior art only applies to 102(e), (f) or (g) references. Therefore, the rejections under **35 U.S.C. § 103** are maintained as set forth in the previous Office Action.

5. All claims are drawn to the same invention claimed in the parent application prior to the filing of this CPA under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

**A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.**

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**Contact Information:****PTO Policy for Facsimile Submissions:**

- ☐ AFTER-FINAL faxes must be signed and sent to (703) 746-7238.
- ☐ OFFICIAL faxes must be signed and sent to (703) 746-7239.
- ☐ NON OFFICIAL faxes should be sent to (703) 746-7240.

All OFFICIAL faxes will be handled and entered by the docketing personnel. The date of entry will correspond to the actual FAX reception date unless that date is a Saturday, Sunday, or a Federal Holiday within the District of Columbia, in which case the official date of receipt will be the next business day. The application file will be promptly forwarded to the Examiner unless the application file must be sent to another area of the Office, e.g., Finance Division for fee charging, etc.

- ☐ Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist). All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses directly to the Examiner.
- ☐ Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at **(703) 305-9600**.
- ☐ Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie at (703) 308-9120 or via e-mail at *George.Opie@uspto.gov*. Internet e-mail should not be used where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the Applicant. Sensitive data includes confidential information related to patent applications.

LARRY D. DONAGHUE  
PRIMARY EXAMINER

